

**Hawaii State Department of Health
Environmental Planning Office
GROUND RULES
for the Next Review and Revision Process
To the Hawaii Administrative Rule, Chapter 11-54, Water Quality Standards
(HAR 11-54)
October 1, 2004**

Introduction:

This document describes the procedures to be implemented in the federal fiscal year 2005 for the start of the Water Quality Standards (WQS) review and amendment process. We have developed and will test a new procedure for informal review of the Hawaii Administrative Rule, Chapter 11-54, Water Quality Standards in FY-05. The procedures are intended to ensure consistency with state and federal requirements, define the formal structure for drafting amendments, provide for informed participation, and allow for public comment. The "Ground Rules" below explain how to prepare and submit proposed amendments to the rule; we ask that participants refer to these rules frequently so that all of us can conduct an efficient process.

If proposed amendments result from the conclusion of this informal advisory process, they will be recommended to the Director of Health for handling through the formal, legal amendment process of HRS chapters 91 and 201M, as applicable.

Ground Rules for the Amendment Development Process:

1. The general rule for invited participants is to draft and submit written materials; DOH will also write or record all communications for our files. All meetings should have a written agenda and be videotaped; and notes will be taken during telephone conversations. To facilitate distribution and review, all proposals should be in writing. We will provide a public comment period on each agenda, and will distribute meeting notices as widely as possible.
2. Federally required elements of HAR 11-54 are legally required to be at a minimum as strict as federal requirements, or stricter, and proposed amendments cannot relax HAR 11-54 without conducting a complex data collection, analysis, and public outreach effort, which must be documented in writing and submitted for EPA approval. Note that federal regulations allow HAR 11-54 to be customized to some extent for state use, but states are expected by EPA to develop many of their own numeric and narrative criteria using locally-collected data sets that represent background conditions in minimally polluted surface waters.
3. Please note that all legal questions/concerns will be directed to the Attorney General's Department for informal or formal written replies, and that all water allocation questions will be directed to the Deputy Director of the Commission on Water Resources Management (COWRM) for direct, written replies.

4. At the start of the process, we will ask Advisory Group members to volunteer as Team Leader or Team Member for each specific amendment proposed. Each Team Leader will take the lead on discussing and drafting proposals with the help of Team Members. Discussions should include as many people as possible, then written drafts prepared and submitted to EPO for review for conformance with the "Ground Rules." EPO will explain in writing any changes or rejections of proposals. The next step will be for EPO to distribute conforming proposals to the entire Advisory Group (both subgroups combined) for review and comment. Second drafts will be posted on EPO's web site to elicit wider public distribution and review. We ask that each Team Leader mail a signed and dated original (on paper) of each draft proposal to EPO, and indicate on the signed document the approximate number of people who participated in drafting the amendment (and, if you wish, you may include a list of their fields of expertise).
5. Written proposals for amendments must be accompanied by short support documents that explain the reason(s) for the proposal. The proposed and signed amendment will be distributed for review, and a meeting scheduled a week or so later for discussion of proposed amendments received in writing. To keep the meetings within reasonable timeframes, no proposed amendments will be discussed unless a team and team leader have written and submitted a draft for review by both subgroups before a videoconference is held. DOH and EPA will review all proposed amendments for legal and technical consistency, and DOH will review them for conformance with these "Ground Rules", and assemble a final draft of the rule for review before initiating the public hearing process.
6. AASG and PASG members and the public are free to attend meetings of either or both subgroups, and notice of each subgroups' meetings shall be given to the other subgroup. Copies of videotapes of meetings will be sent to recipients of invitation letters. Other people asking for copies will be asked to pay a nominal fee for copying the taped material. We will conduct the videoconference meetings on the 5th floor of DOH. Every meeting will be facilitated. Funding for this task is minimal, therefore we prefer to maximize participation via videoconferencing, e-mail, and telephone.
7. **Assessment Advisory Subgroup (AASG):** AASG members will focus on numeric data, data quality, and on data analysis and interpretations for the purpose of reviewing numeric criteria in the rule, and for reorganization of some of the sections containing criteria on specific waterbody types. and will consist of those persons with advanced degrees and a track record in surface water quality measurements and/or water-related field assessments and interpretations. The AASG will work with EPO via e-mail and telephone, and meet when there are draft amendments to review. Scientists based on the mainland and in the US-affiliated Pacific Islands will be invited to participate, but will not be able to attend meetings in person. Participation is voluntary; duties will include discussions, suggestions for amendments, and drafting of proposed amendments plus brief technical support documents explaining the basis for the proposed amendment
8. Ground rules for acceptance of raw or summarized field or laboratory data: the document(s) must be published in peer-reviewed journals; published in technical reports; or, if no written report is available, please provide a brief summary of the purpose of the study; explain

briefly in writing why you believe that your data are of acceptable quality and are thus are defensible; identify the three-dimensional boundaries of waters to which you believe your data are applicable; disclose method detection limits; source of project funding; and any other information you think would be useful for setting and implementing WQS through water pollution control permits, and for other water quality monitoring/management purposes.

9. **Policy Advisory Subgroup (PASG):** PASG membership is organized by stakeholder group or by agency affiliation. As a recipient of a letter of invitation to participate in this rule-making effort, you are asked to name one person from within your organization or agency to occupy the seat for that interest, and to select one alternate. Only the designated member or designated alternate will be officially "at the table".
10. We will present the list of proposed amendments developed by EPA and DOH at the first PASG meeting, and ask for additional suggestions for amendments for agency evaluation.